



National Health Service Act 1977

1977 CHAPTER 49

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

Supplementary

126 Orders and regulations, and directions.

- (1) Any power to make orders [^{F1}, rules] or regulations conferred by this Act shall be exercisable by statutory instrument, and a statutory instrument made by virtue of this Act shall [^{F2}, unless it is a PCT order [^{F3} or an instrument made by the National Assembly for Wales] ,] be subject to annulment in pursuance of a resolution of either House of Parliament.

This subsection—

- ^{F4}(a)
- (b) does not apply to [^{F5}an order made under section 28EE(2) [^{F6}or section 84A] above, paragraph 20, 21 or 23 of Schedule 5A to this Act [^{F7}, paragraph 19, 20 or 22 of Schedule 5B to this Act] or to] paragraph 10 of Schedule 11 to this Act.
- (2) Any power to make regulations conferred on the Secretary of State by this Act [^{F8} or Part I of the National Health Service and Community Care Act 1990] is, if the Treasury so directs, exercisable by the Treasury and the Secretary of state acting jointly, except in the case of—
- (a) regulations made under section 32 above;
- (b) regulations made under section 77(1) above in respect of charges for the drugs, medicines or appliances referred to in paragraph (a) of that subsection, or under paragraphs 1(1) of Schedule 12 to this Act [^{F8} or Part I of the National Health Service and Community Care Act 1990] in respect of the remission or repayment of any charge payable under that section in the cases provided for in paragraph 1(1) of that Schedule;

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- (c) regulations made under paragraph 2(2) of that Schedule;
 - (d) regulations made under paragraph 2(6) of that Schedule.
- (3) Where under [^{F9}or by virtue of] any provision of this Act [^{F8}or Part I of the National Health Service and Community Care Act 1990]—
- (a) power to make an order may be exercisable, or
 - (b) directions may be given,
- that provision includes power to vary or revoke the order or direction, as the case may be, by subsequent order or by subsequent directions.
- [^{F10}(3A) Directions given by the Secretary of State [^{F11}or by a [^{F12}Strategic Health Authority or] Health Authority] in pursuance of any provision of this Act or Part I of the ^{M1}National Health Service and Community Care Act 1990 shall be given by an instrument in writing.
- (3B) In relation to directions given in pursuance of [^{F13}section 16BB or] sections [^{F14}16D to 17B] above section 18 above applies in place of subsections (3) and (3A) above.]
- [^{F15}(3C) Any person or body to whom directions are given in pursuance of any provision of this Act or Part I of the ^{M2}National Health Service and Community Care Act 1990 shall comply with the directions.]
- (4) Any power conferred by this Act [^{F8}or Part I of the National Health Service and Community Care Act 1990] to make orders [^{F16}, rules], regulations or schemes, and any power conferred by [^{F17}section 16BB, 18][^{F18}or 19A(7)] above to give directions by an instrument in writing, may unless the contrary intention appears, be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case, and
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act [^{F8}or Part I of the National Health Service and Community Care Act 1990] or that section,
 - (iii) any such provision either unconditionally, or subject to any specified condition,
- and includes power to make such [^{F19}supplementary, incidental, consequential, transitory, transitional or saving] provision in the orders [^{F16}, rules], regulations, schemes or directions as the persons making or giving them consider appropriate.
- This subsection does not only apply to regulations made under section 32 above (but without prejudice to subsection (3) of that section) or to an order made under section 57 above (but without prejudice to paragraph 1(1) of Schedule 11 to this Act [^{F8}or Part I of the National Health Service and Community Care Act 1990])
- [^{F20}(5) Without prejudice to the generality of subsection (4) above, any power which may be exercised as mentioned in paragraphs (a) and (b) of that subsection [^{F21}(other than a power to make rules)] may make different provision for different areas.]

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Textual Amendments

- F1** Word in s. 126(1) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(a)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in Sch. Pt. II); S.I. 2002/1919, {art. 3(1)} (subject to art. (2))
- F2** Words in s. 126(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(2)(a)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F3** Words in s. 126(1) inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 6(3)(a)(i)**, 42(3); S.I. 2002/2532, **art. 2**, Sch.
- F4** S. 126(1)(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 5** (with Sch. 2 para. 6)
- F5** Words in s. 126(1)(b) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(2)(b)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F6** Words in s. 126(1) inserted (1.8.2001 for E. and otherwise *prosp.*) by 2001 c. 15, **ss. 13(2)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/2804 art. 2(1)(a)
- F7** Words in s. 126(1)(b) inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 6(3)(a)(ii)**, 42(3); S.I. 2002/2532, **art. 2**, Sch.
- F8** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 65(2)**
- F9** Words in s. 126(3) inserted (15.8.1997) by 1997 c. 46, s. 41(10), **Sch. 2 para. 27**; S.I. 1997/1780, art. 2(1), **Sch.**
- F10** S. 126(3A)(3B) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) for the second sentence of (3) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 57** (with Sch. 2 para. 6)
- F11** Words in s. 126(3A) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(3)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F12** Words in s. 126(3A) inserted (1.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 32**; S.I. 2002/2478, {art. 3(1)(c)}
- F13** Words in s. 126(3B) inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), {ss. 6(3)(b)}, 42(3); S.I. 2002/2532, **art. 2**, Sch.
- F14** Words in s. 126(3B) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(4)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F15** S. 126(3C) inserted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 65, **Sch. 4 para. 37(5)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**
- F16** Words in s. 126(4) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(b)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in Sch. Pt. II); S.I. 2002/1919, **art. 3(1)** (subject to art. 3(2))
- F17** Words in s. 126(4) substituted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), {ss. 6(3)(c)}, 42(3); S.I. 2002/2532, **art. 2**, Sch.
- F18** Words in s. 126(4) inserted (10.10.2002 for W., otherwise *prosp.*) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 37(1), 42(3), **Sch. 8 para. 10(a)**; S.I. 2002/2532, **art. 2**, Sch.
- F19** Words in s. 126(4) substituted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 65, **Sch. 4 para. 37(6)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**
- F20** S. 126(5) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 65(2)**
- F21** Words in s. 126(5) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(d)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in Sch. Pt. II); S.I. 2002/1919, **art. 3(1)** (subject to art. 3(2))

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Modifications etc. (not altering text)

- C1** S. 126 applied (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1968 c. 46, s. 63(5A) (as inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), Sch. 1 Pt. III para. 95(2)(c) (with Sch. 2 para. 6)
- C2** S. 126(4)(5) applied (3.8.1999 for E. and W. and otherwise 1.10.1999) by 1999 c. 8, ss. 62(4)(5), 67; S.I. 1999/2177, art. 2(1); S.S.I. 1999/90, art. 2(a), Sch. 1
- C3** S. 126(4)(5) extended (28.6.1995) by 1995 c. 17, s. 6(6) (with Sch. 2 para. 6)
- C4** S. 126(4) extended by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 28(3)

Marginal Citations

- M1** 1990 c. 19.
M2 S.I. 1990 c.19.

127 Supplementary regulatory powers.

Regulations may provide for all or any of the following matters—

- (a) for prescribing the forms and manner of service of notices and other documents;
- (b) for prescribing the manner in which documents may be executed or proved;
- (c) for prescribing the manner in which resolutions of any bodies (except the Public Health Laboratory Service Board) continued in being by this Act are to be proved;
- (d) for exempting judges and justices of the peace from disqualification by their liability to rates.

128 Interpretation and construction.

- (1) In this Act [^{F22}and Part I of the National Health Service and Community Care Act 1990], unless the contrary intention appears—

^{F23}

^{F24}

^{F25}

[^{F26}“dental corporation” has the meaning given by section 35(5);]

“dental practitioner” means a person registered in the dentists register under the ^{M3}Dentists Act [^{F27}1984];

[^{F28}“disabled persons” means persons who are blind, deaf or dumb or who suffer from mental disorder of any description and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed;]

[^{F29}“dispensing optician” means a person who is registered in the register kept under section 2 of the ^{M4}Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as dispensing opticians;]

“equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;

[^{F30}“the FHSAA” means the Family Health Services Appeal Authority;]

“functions” included powers and duties;

^{F31}

^{F23}

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“the health service” means the health service established in pursuance of [F32]section 1 of the M5National Health Service Act 1946 and continued under] section 1(1) above;

[F33“health service body” has the same meaning as in section 4 of the M6National Health Service and Community Care Act 1990;]

“health service hospital” means a hospital vested in the Secretary of State [F34for the purposes of his functions] under this Act [F35or vested in [F36a Primary Care Trust or] an NHS trust];

[F37“high security psychiatric services” has the meaning given by section 4 above]

F24

“hospital” means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution, and hospital accommodation shall be construed accordingly;

“illness” includes mental disorder within the meaning of [F38the M7Mental Health Act 1983] and any injury or disability requiring medical or dental treatment or nursing;

“local authority” means a county council, . . . F39a district council, [F40a county borough council,] a London borough council, and the Common Council of the City of London; F41 . . .

“local education authority” has the same meaning as in the [F42the Education Act 1996];

[F43“local pharmaceutical services” means such services of a kind which may be provided under section 41 or by virtue of section 41A (except the provision of drugs, medicines or listed appliances by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 43(1)) as are prescribed by regulations under section 28 of the Health and Social Care Act 2001;

“LPS arrangements” means arrangements made under a pilot scheme established under section 28 of the Health and Social Care Act 2001;]

“local social services authority” means the council of a non-metropolitan county, [F44of a county borough]or of a metropolitan district or London borough, or the Common Council of the City of London;

“medical” includes surgical;

[F33“medical list” has the meaning given by section 29A(6);]

[F45“medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the M8Interpretation Act 1978]

“medicine” includes such chemical re-agents as are included in a list for the time being approved by the Secretary of State for the purposes of section 41 above;

“modifications” includes additions, omissions and amendments;

[F46“NHS contract” has the meaning assigned by section 4(1) of the National Health Service and Community Care Act 1990;

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“National Health Service trust” has the meaning assigned by section 5 of the National Health Service and Community Care Act 1990 and “NHS trust” shall be construed accordingly]

“officer” includes servant;

[^{F47}“operational date”, in relation to an NHS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 2 to the National Health Service and Community Care Act 1990]

“ophthalmic optician” means a person registered in either of the registers kept under [^{F48}section 7 of the Opticians Act 1989] of ophthalmic opticians or a body corporate enrolled in the list kept under [^{F49}section 9] of that Act of such bodies carrying on business as ophthalmic opticians;

“patient” includes an expectant or nursing mother and a lying-in woman;

[^{F33}“personal dental services” has the meaning given in section 28C(7);]

[^{F33}“personal medical services” (except in section 29) has the meaning given in section 28C(7);]

[^{F50}“pharmaceutical services” has the meaning assigned by section 41 of this Act]

“prescribed” means prescribed by regulations made by the Secretary of State under this Act [^{F51}or Part I of the National Health Service and Community Care Act 1990;]

[^{F52}“PCT order” has the meaning given by section 16A above]

[^{F53}“primary functions” shall be construed in accordance with section 3 of the National Health Service and Community Care Act 1990]

“property” includes rights; . . . ^{F25}

“registered pharmacist” means a pharmacist registered in the register of pharmaceutical chemists;

“regulations” means regulations made by the Secretary of State under this Act [^{F54}or Part I of the National Health Service and Community Care Act 1990];

^{F55}

“superannuation benefits” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;

[^{F56}“terms of service” means the terms upon which by virtue of regulations a person undertakes to provide general medical services, general dental services, general ophthalmic services or pharmaceutical services.]

“university” includes a university college;

[^{F57}“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority;]

^{F24}

[^{F58}(1A) So far as is necessary or expedient in consequence of a direction under section 16D or 17A above providing for the exercise by a [^{F59}Strategic Health Authority,] Health Authority, Special Health Authority or Primary Care Trust of a function exercisable by another person, any reference in any enactment, instrument or other document to that other person is to be read as a reference to the [^{F59}Strategic Health Authority,] Health Authority, Special Health Authority or Primary Care Trust.]

(2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.

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- (3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment including this Act.

Textual Amendments

- F22** Words inserted by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), [s. 26\(2\)](#)
- F23** Definitions of “District Health Authority” and “health authority” in s. 128(1) repealed (1.4.1996) by [1995 c. 17, s. 5\(1\)\(2\)](#), [Sch. 3](#) (with [Sch. 2 para. 6](#))
- F24** Definition repealed by [Health Services Act 1980](#) (c. 53, SIF 113:2), [Sch. 2, para. 10](#), [Sch. 7](#)
- F25** Definition repealed by [Nurses, Midwives and Health Visitors Act 1979](#) (c. 36, SIF 83:1), [Sch. 7, para. 28](#), [Sch. 8](#)
- F26** S. 128(1): Definition of “dental corporation” inserted (22.11.2001 for E. and 1.7.2002 for W.) by [2001 c. 15, ss. 22\(5\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); S.I. 2001/3738, [art. 2\(1\)](#), [Sch. 1 Pt. I](#); S.I. 2002/1475, [art. 2](#), [Sch. Pt. 1](#)
- F27** Words substituted by [Dentists Act 1984](#) (c. 24, SIF 83:1), [s. 54\(1\)](#), [Sch. 5 para. 9](#)
- F28** Definition inserted by [Health and Social Services and Social Security Adjudications Act 1983](#) (c. 41, SIF 113:3), [s. 29\(1\)](#), [Sch. 9 Pt. I para. 22](#)
- F29** Definition repealed (*prosp.*) by [Health and Social Security Act 1984](#) (c. 48, SIF 113:3), [ss. 24, 27\(1\)](#), [Sch. 8 Pt. I](#)
- F30** S. 128(1): Definition of “the FHSAA” inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by [2001 c. 15, ss. 27\(3\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); S.I. 2001/3294, [art. 4\(1\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [Sch. Pt. II](#)); S.I. 2002/1919, [art. 3\(1\)](#), [Sch. Pt. II](#) (subject to [art. 3\(2\)](#))
- F31** Definition of “fund-holding practice” in s. 128(1) repealed (1.10.1999 for E. and otherwise 1.4.2000) by [1999 c. 8, s. 65](#), [Sch. 5](#); S.I. 1999/2540, [art. 2\(1\)](#), [Sch. 1](#); S.I. 2000/1041, [art. 2\(d\)](#), [Sch.](#)
- F32** Words inserted by [Health Services Act 1980](#) (c. 53, SIF 113:2), [Sch. 1, para. 77\(c\)](#)
- F33** Definitions in s. 128(1) inserted (1.4.1998 for specified purposes and otherwise 10.12.1998) by [1997 c. 46, s. 41\(10\)](#), [Sch. 2 para. 28](#); S.I. 1998/631, [art. 2\(b\)](#), [Sch. 2](#) (with [arts. 3-5](#)); S.I. 1998/2840, [art. 2\(3\)](#), [Sch.](#) (with [art. 3](#))
- F34** Words inserted by [Health Services Act 1980](#) (c. 53, SIF 113:2), [Sch. 1, para. 77\(d\)](#)
- F35** Words inserted by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), [s. 26\(2\)\(c\)](#)
- F36** Words in the definition of “health service hospital” in s. 128(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by [1999 c. 8, ss. 65, 67](#), [Sch. 4 para. 38\(2\)\(a\)](#); S.I. 1999/2342, [art. 2\(3\)\(a\)](#), [Sch. 2](#)
- F37** Definition of “high security psychiatric services” in s. 128(1) inserted (1.4.2000) by [1999 c. 8, s. 65](#), [Sch. 4 para. 38\(2\)\(b\)](#); S.I. 1999/2793, [art. 2\(3\)\(a\)](#), [Sch. 3](#)
- F38** Words substituted by [Mental Health Act 1983](#) (c. 20, SIF 85), [s. 148](#), [Sch. 4 para. 47\(d\)](#)
- F39** Words repealed by [Local Government Act 1985](#) (c. 51, SIF 81:1), [s. 102\(2\)](#), [Sch. 17](#)
- F40** Words in the definition of “local authority” in s. 128(1) inserted (1.4.1996) by [1994 c. 19, s. 22\(4\)](#), [Sch. 10 para. 11\(3\)\(a\)](#) (with [ss. 54\(5\)\(7\), 55\(5\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 3](#), [Sch. 1](#)
- F41** Words in the definition of “local authority” in s. 128(1) repealed (1.4.1996) by [1995 c. 17, s. 5\(1\)\(2\)](#), [Sch. 3](#) (with [Sch. 2 para. 6](#))
- F42** Words in the definition of “local education authority” in s. 128(1) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(1\)](#), [Sch. 37 para. 45](#) (with [s. 1\(4\)](#), [Sch. 39](#))
- F43** S. 128(1): definitions of “local pharmaceutical services” and “LPS arrangements” inserted (E.) (12.12.2002) by [The National Health Service \(Local Pharmaceutical Services Etc.\) Regulations 2002](#) (S.I. 2002/2861), [reg. 24](#)
- F44** Words in the definition of “local social services authority” in s. 128(1) inserted (1.4.1996) by [1994 c. 19, s. 22\(4\)](#), [Sch. 10 para. 11\(3\)\(b\)](#) (with [ss. 54\(4\)\(7\), 55\(5\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 3](#), [Sch. 1](#)
- F45** Definition substituted by [Medical Act 1983](#) (c. 45, SIF 83:1), [s. 56\(1\)](#), [Sch. 5 para. 16\(b\)](#)

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- F46** Definitions inserted (the insertion not being in force until 1.4.1991 so far as it relates to the definition of “NHS contract”) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(d)**
- F47** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(e)**
- F48** Words substituted by Opticians Act 1989 (c. 44, SIF 83:1), s. **37(1)(a)**
- F49** Words substituted by Opticians Act 1989 (c. 44, SIF 83:1), s. **37(1)(b)**
- F50** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(f)**
- F51** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(g)**
- F52** Definition of “PCT order” in s. 128(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 38(2)(c)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F53** Definition inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(h)**
- F54** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **26(2)(i)**
- F55** Definition of “special hospital” in s. 128(1) repealed (1.4.2000) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 1999/2793, art. 2(3)(a), **Sch. 3**
- F56** S. 128(1): Definition of “terms of service” inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and otherwise *prosp.*) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 Pt. 1 para. 5(14)** (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), **Sch. 1 Pt. II**
- F57** Definition substituted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1**, para. 77(e)
- F58** S. 128(1A) inserted (1.9.1999 for E. for specified purposes, 1.12.1999 for W. for specified purposes, 4.1.2000 for E. for other specified purposes and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 38(3)**; S.I. 1999/2342, art. 2(1)(3)(a), Schs. 1, 2; S.I. 1999/3184, art. 2(2), **Sch. 2**
- F59** Words in s. 128(1A) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 33**; S.I. 2002/2478, **art. 3(1)(c)**

Marginal Citations

- M3** 1984 c. 24(**83:1**).
- M4** 1958 c. 32(**83:1**).
- M5** 1946 c. 81.
- M6** 1990 c. 19.
- M7** 1983 c. 20(**85**).
- M8** 1978 c. 30(**115:1**).

129 Transitional provisions and savings, consequential amendments, and repeals.

Schedule 14 to this Act is hereby given effect, and subject to the transitional provisions and savings contained in that Schedule—

- (a) the enactments and the Order specified in Schedule 15 to this Act have effect subject to the amendments (being amendments consequent on this Act) specified in that Schedule, and
- (b)

F60

but nothing in this Act shall be taken as prejudicing the operation of [F61sections 16(1) and 17(2)(a) of the M9Interpretation Act 1978] (which relates to the operation of repeals).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Textual Amendments

F60 S. 129(b) repeals enactments specified in Sch. 16

F61 Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), s. 25(2)

Marginal Citations

M9 1978 c. 30(115:1).

130 Short title, extent and commencement.

- (1) This Act may be cited as the National Health Service Act 1977.
- (2) This Act does not extend to Scotland, except as is mentioned in paragraph 3 of Schedule 11 to this Act.
- (3) The following provisions only of this Act apply to Northern Ireland—
 - (a) this subsection and subsections (1) above and (5) below;
 - (b) section 57 above and Schedule 11 to this Act;
 - ^{F62}(c)
 - (d) paragraph 13 of Schedule 14 to this Act so far as it relates to any enactment which extends to Northern Ireland;
 - (e) paragraph (a) of section 129 above and Schedule 15 to this Act so far as they amend any enactment and order which extends to Northern Ireland;
 - (f) paragraph (b) of section 129 and Schedule 16 to this Act so far as they repeal any enactment which extends to Northern Ireland.
- (4) The Secretary of State may by order provide that this Act shall extend to the Isles of Scilly with such modifications, if any, as are specified in the order, and except as provided in pursuance of this subsection this Act does not extend to the Isles of Scilly.

The Secretary of State may by any such order amend or repeal any provisions contained in the Isles of Scilly Orders 1927 to 1943.

- (5) This Act shall come into force on the expiry of the period of one month beginning on the date of its passing.

Textual Amendments

F62 S. 130(3)(c) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), [Sch. 3](#)

Modifications etc. (not altering text)

C5 S. 130(4) extended by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 149(4)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by [2003 c. 43 Sch. 7 para. 3\(7\)](#)
- Act repealed by [2006 c. 43 Sch. 4](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(4) inserted by [2003 c. 43 Sch. 11 para. 8](#)
- s. 3(4)(a) words substituted by [2006 c. 28 Sch. 8 para. 7\(4\)\(a\)](#)
- s. 3(4)(b) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 3(4)(b) words substituted by [2006 c. 28 Sch. 8 para. 7\(4\)\(b\)](#)
- s. 8(9)(10) added by [2006 c. 28 s. 74\(1\)](#)
- s. 11(4A)(4B) inserted by [2006 c. 28 s. 74\(2\)\(a\)](#)
- s. 16B(4) inserted by [2003 c. 43 s. 182\(1\)](#)
- s. 16BC(4) inserted by [2003 c. 43 s. 182\(2\)](#)
- s. 16CA and heading inserted by [2003 c. 43 s. 170](#)
- s. 16CB inserted by [2003 c. 43 s. 171\(1\)](#)
- s. 16CC inserted by [2003 c. 43 s. 174](#)
- s. 16CD16CE inserted by [2006 c. 28 s. 37](#)
- s. 19A(2)(aa) inserted by [2003 c. 43 Sch. 9 para. 9](#)
- s. 20A inserted by [2003 c. 4 s. 1\(1\)](#)
- s. 21(4) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 9](#)
- s. 22(1A)(e) inserted by [2003 c. 43 Sch. 4 para. 25](#)
- s. 28D(1)(b)-(bc) substituted for s. 28D(1)(b)(c) by [2003 c. 43 s. 177\(2\)](#)
- s. 28D(1)(bc)(i) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 28D(1)(bc)(iii) words substituted by [S.I. 2004/957 Sch. para. 3](#)
- s. 28D(1A) inserted by [2003 c. 43 s. 177\(3\)](#)
- s. 28E(3)(ca) inserted by [2003 c. 43 s. 177\(7\)](#)
- s. 28E(3A)(3B) inserted by [2003 c. 43 s. 177\(8\)](#)
- s. 28E(3C) inserted by [2003 c. 43 s. 177\(9\)](#)
- s. 28E(3D) inserted by [2003 c. 43 s. 177\(10\)](#)
- s. 28E(3E)(3F) inserted by [2003 c. 43 s. 177\(11\)](#)
- s. 28K-28P and heading inserted by [2003 c. 43 s. 172\(1\)](#)
- s. 28M(4) words substituted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 16](#)
- s. 28Q-28W and heading(s) inserted by [2003 c. 43 s. 175\(1\)](#)
- s. 28W(5) applied by [S.I. 2004/478 reg. 100\(3\)](#)
- s. 28W(5) applied by [S.I. 2004/478 Sch. 6 para. 100\(3\)](#)
- s. 28X applied (with modifications) by [S.I. 2006/552 Sch. 1 para. 4](#)
- s. 28X inserted by [2003 c. 43 s. 179\(1\)](#)
- s. 28X heading words substituted by [2006 c. 28 s. 39\(5\)](#)
- s. 28X(1A) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 17\(a\)](#)
- s. 28X(2A) inserted by [2006 c. 28 s. 39\(2\)](#)
- s. 28X(3)(b) words substituted by [2006 c. 28 s. 39\(3\)](#)
- s. 28X(3)(c) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 17\(b\)](#)
- s. 28X(6A) inserted by [2006 c. 28 s. 39\(4\)](#)
- s. 28Y inserted by [2003 c. 43 s. 180](#)
- s. 28Y(1) applied (with modifications) by [S.I. 2006/552 Sch. 1 para. 5](#)
- s. 28Y(1)(a) substituted by [2006 c. 28 s. 40\(2\)](#)
- s. 28Y(1)(b) words substituted by [2006 c. 28 s. 40\(3\)](#)
- s. 28Y(1)(c) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 18](#)
- s. 28WA-28WF and cross-heading inserted by [2006 c. 28 s. 38](#)
- s. 29-34A repealed by [2003 c. 43 s. 175\(2\)Sch. 14 Pt. 4](#)

- s. 34A inserted by [1997 c. 46 s. 25\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 25(1) repealed (1.4.2004) without ever being in force by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1) (4), Sch. 14 Pt. 4 Note; S.I. 2004/288, art. 6(2)(p) (with art. 8) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345))
- s. 35(3)-(3B) substituted for s. 35(3) by [S.I. 2005/2011 Sch. 6 para. 1\(2\)\(a\)](#) (This amendment comes into force on a day to be specified in the London, Edinburgh and Belfast Gazettes (see, for example, the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008))
- s. 42(2A) inserted by [2001 c. 15 s. 40\(3\)](#)
- s. 42(2B)(2C) inserted by [2006 c. 28 s. 35](#)
- s. 42A42B inserted by [2006 c. 28 s. 34\(1\)](#)
- s. 43(4)(5) added by [1997 c. 19 Sch. para. 6](#) (This amendment not applied to [legislation.gov.uk](#). 1997 c. 19 repealed (30.3.2007) by S.I. 2007/289, art. 1(2)(3), Sch. 1 para. 6; commencing date as notified in The Gazette, published 23.3.2007)
- s. 43A inserted by [1984 c. 48 s. 7\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 7(1) repealed (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without ever being in force by National Health Service (Pre - consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 43A43B substituted by [1999 c. 8 s. 10\(1\)\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 repealed (1.3.2007) without ever being in force by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1))
- s. 43A43B substituted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 19](#)
- s. 43A(3) repealed by [1997 c. 46 Sch. 2 para. 77](#)[Sch. 3 Pt. 2](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 2 para. 77 repealed (E.W.) (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without ever being in force by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 43B added by [1984 c. 48 s. 7\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 7(3) repealed to the extent that it inserts section 43B of the National Health Service Act 1977 (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without that amendment ever being in force by National Health Service (Pre - consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 44(3A) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 20\(c\)](#)
- s. 45A45B inserted by [2003 c. 43 Sch. 11 para. 23](#)
- s. 45A(3) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45A(3)(a) word repealed by [2006 c. 28 Sch. 8 para. 17\(2\)](#)[Sch. 9](#)
- s. 45A(3)(aa) inserted by [2006 c. 28 Sch. 8 para. 17\(2\)](#)
- s. 45A(4) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45A(4)(a) substituted by [2006 c. 28 Sch. 8 para. 17\(3\)](#)
- s. 45A(11) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45C inserted by [2006 c. 28 s. 41](#)
- s. 46-46C substituted for s. 46 by [1999 c. 8 s. 40\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 40 repealed by 2001 c. 15, ss. 67, 70(2), Sch. 6 Pt. 1 (with ss. 64(a), 65(4)), the repeal coming into force immediately before the coming into force of the National Health Service Act 2006 (c. 41) (as to which see s. 227 of that 2006 Act) by virtue of The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 8(c))
- s. 54(1)(c) and word(s) inserted by [2003 c. 43 Sch. 11 para. 26\(2\)\(c\)](#)
- s. 54(1)(c) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 72(5)(d) and word(s) inserted by [2003 c. 43 Sch. 11 para. 27\(2\)](#)
- s. 72(5)(d) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 72(5)(d) words substituted by [2006 c. 28 Sch. 8 para. 21\(b\)\(i\)](#)
- s. 72(5)(d) words substituted by [2006 c. 28 Sch. 8 para. 21\(b\)\(ii\)](#)

- s. 77(4) inserted by [2003 c. 43 Sch. 11 para. 28](#)
- s. 78A inserted by [1997 c. 46 s. 26\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 26(1) repealed (1.3.2007) without ever being in force by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1 Sch. 3 Pt. 1))
- s. 79(5)(b) modified by [2003 c. 43 s. 183\(4\)](#)
- s. 96(4) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 27](#)
- s. 96A(12) inserted by [2003 c. 43 Sch. 4 para. 37](#)
- s. 98(1A)-(1C) inserted by [S.I. 2003/1324 Sch. 2 para. 1\(2\)](#)
- s. 98(1A) substituted by [S.I. 2004/1714 Sch. 2 para. 1\(2\)](#)
- s. 98(1A)(e) inserted by [S.I. 2006/960 Sch. 2 para. 1\(2\)](#)
- s. 98(1C) words inserted by [S.I. 2004/1714 Sch. 2 para. 1\(4\)](#)
- s. 98(1C) words substituted by [S.I. 2006/960 Sch. 2 para. 1\(4\)](#)
- s. 98(1D) inserted by [2004 c. 23 Sch. 2 para. 2](#)
- s. 98(1BA)(1BB) inserted by [S.I. 2004/1714 Sch. 2 para. 1\(3\)](#)
- s. 98(1BC) inserted by [S.I. 2006/960 Sch. 2 para. 1\(3\)](#)
- s. 98(4A) inserted by [S.I. 2003/1324 Sch. 2 para. 1\(4\)](#)
- s. 98(7)-(10) inserted by [S.I. 2005/1074 art. 2\(2\)](#)
- s. 103(4)(5) inserted by [2001 c. 15 Sch. 5 para. 5\(12\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 5(12)(c) repealed (1.3.2007) without ever being in force by 2006 c. 43, s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1))
- s. 124A(3)(aa) inserted by [2002 c. 38 Sch. 3 para. 20](#)
- s. 126(1A) inserted by [2003 c. 43 s. 183\(3\)\(b\)](#)
- s. 126(4A) inserted by [2001 c. 15 Sch. 5 para. 5\(13\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 5(13)(c) repealed (1.3.2007) without ever being in force by 2006 c. 43, s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1))
- s. 126(4A) inserted by [2003 c. 4 s. 1\(2\)](#)
- Sch. 5 para. 12B inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 39\(c\)](#)
- Sch. 5 para. 10(2A)-(2C) substituted for Sch. 5 para. 10(2A) by [S.I. 2005/2011 Sch. 6 para. 1\(4\)](#) (This amendment comes into force on a day to be specified in the London, Edinburgh and Belfast Gazettes (see, for example, the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008))
- Sch. 5A para. 20(1A) inserted by [2006 c. 28 s. 74\(3\)](#)
- Sch. 5B para. 19(1A) inserted by [2006 c. 28 s. 74\(4\)](#)
- Sch. 7A inserted by [2003 c. 4 s. 1\(3\)Sch. 1](#)
- Sch. 7A para. 3(1)(fa) inserted by [2003 c. 43 Sch. 11 para. 40\(2\)\(a\)](#)
- Sch. 7A para. 3(1)(g) words repealed by [2003 c. 43 Sch. 11 para. 40\(2\)\(b\)Sch. 14 Pt. 4](#)
- Sch. 7A para. 3(2) words substituted by [2003 c. 43 Sch. 11 para. 40\(3\)](#)
- Sch. 9A para. 10(a)(aa) substituted for s. Sch. 9A para. 10(a) by [2003 c. 43 Sch. 11 para. 42\(4\)\(b\)](#)
- Sch. 9A para. 6(d)(i)(ii) substituted for words in para. 6(d) by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 40\(b\)](#)
- Sch. 11 para. 5A inserted by [S.I. 2004/3363 art. 7](#)
- Sch. 12 para. 2A(6) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 42\(g\)](#)
- Sch. 12 para. 2B amendment to earlier affecting provision 2006 c. 28, s. 41(3) by [S.I. 2006/1407 Sch. 1 Pt. 2 para. 15](#) (The earlier affecting provision cited is incorrect. The correct provision should be s. 42(3).)
- Sch. 12 para. 2B inserted by [2006 c. 28 s. 42\(3\)](#)
- Sch. 12 para. 2A(1)(b)(ba) substituted for Sch. 12 para. 2A(1)(b) by [2006 c. 28 s. 42\(2\)\(a\)](#)
- Sch. 12A para. 7(4) inserted by [2001 c. 15 Sch. 5 para. 5\(17\)\(c\)](#)
- Sch. 12B inserted by [2006 c. 28 s. 56\(2\)Sch. 3](#)
- Sch. 12ZA inserted by [2003 c. 43 s. 183\(2\)](#)

Commencement Orders yet to be applied to the National Health Service Act 1977

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/53 art. 2-4 commences (2001 c. 15)
- S.I. 2003/713 art. 2 commences (2001 c. 15)
- S.I. 2003/833 art. 23 commences (2002 c. 17)
- S.I. 2003/2245 art. 2 commences (2001 c. 15)
- S.I. 2003/2246 art. 2 commences (2002 c. 17)
- S.I. 2003/2660 art. 2-4 commences (2003 c. 4)
- S.I. 2003/3064 art. 2 commences (2003 c. 4)
- S.I. 2003/3083 art. 2 commences (2002 c. 17)
- S.I. 2003/3346 art. 2-5 commences (2003 c. 43)
- S.I. 2004/103 art. 2-4 commences (2001 c. 15)
- S.I. 2004/287 art. 23 commences (1997 c. 46)
- S.I. 2004/288 art. 2-6 commences (2003 c. 43)
- S.I. 2004/289 art. 2 commences (1998 c. 8)
- S.I. 2004/480 art. 2-5 commences (2003 c. 43)
- S.I. 2004/759 art. 2-13 commences (2003 c. 43)
- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2004/1009 art. 2 commences (2003 c. 43)
- S.I. 2004/1019 art. 2 commences (2003 c. 43)
- S.I. 2004/1859 art. 2-6 commences (1999 c. 8)
- S.I. 2004/2626 art. 2 commences (2003 c. 43)
- S.I. 2005/457 art. 2 commences (2003 c. 43)
- S.I. 2005/558 art. 2Sch. 1 commences (2004 c. 23)
- S.I. 2005/1432 art. 2 commences (2005 c. 12)
- S.I. 2005/2213 art. 23 commences (2002 c. 38)
- S.I. 2005/2800 art. 3-5 commences (2005 c. 10)
- S.I. 2005/2897 art. 2 commences (2002 c. 38)
- S.I. 2005/2925 art. 24-11 commences (2003 c. 43)
- S.I. 2005/2926 art. 23 commences (1997 c. 46)
- S.I. 2006/345 art. 2-7 commences (2003 c. 43)
- S.I. 2006/481 art. 23 commences (2001 c. 15)
- S.I. 2006/1014 art. 2Sch. 12 commences (2005 c. 4)
- S.I. 2006/1407 Sch. 1 Pt. 2 para. 3681213 commences (1997 c. 46)
- S.I. 2006/2603 art. 2-5 commences (2006 c. 28)
- S.I. 2006/3125 art. 2-4 commences (2006 c. 28)
- S.I. 2007/204 art. 2-4 commences (2006 c. 28)
- S.I. 2008/1972 art. 2 commences (2006 c. 28)